

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

CARBON PROCESSING AND RECLAMATION,)
LLC,)
2416 CHUCHURA ROAD)
BIRMINGHAM, ALABAMA 35244)
)
AND)
)
CPR MARINE, LLC,)
5605 INNERARITY CIRCLE)
PENSACOLA, FLORIDA 32507)
)
Plaintiffs,)
)
v.)
)
VALERO MARKETING AND SUPPLY, CO.)
ONE VALERO WAY)
SAN ANTONIO, TEXAS 78249)
)
AND)
)
VALERO REFINING CO. - TENNESSEE,)
LLC,)
1237 RIVERSIDE BOULEVARD.)
MEMPHIS, TENNESSEE 38106)
)
Defendants.)

Civil No. 09-2127-A/P

ORDER DENYING DEFENDANTS' MOTION FOR PROTECTIVE ORDER

It appearing to the Court that Defendants failed to meet their burden of demonstrating that Plaintiffs and Defendants are direct competitors and that Defendants failed to meet their burden of demonstrating with particularity any clearly defined serious injury

which would occur should the Court not enter a protective order with an attorneys' eyes only provision, it is hereby:

ORDERED, consistent with the Court's ruling from the bench at the conclusion of the January 7, 2009 hearing on this motion, that Defendants' Motion for a Protective Order is hereby DENIED. Consistent with the positions taken by the parties and argument of counsel, the Court will separately enter a protective order without an attorneys' eyes only provision. The Court has specifically considered the disputes as they relate to the term contracts, identities of customers, prices charged, chemical composition of batches of slurry or No. 6 oil and similar information and found that such information does not, on the facts of this case, rise to the level of information which should be protected by an attorneys' eyes only protective order. While the Court denies Defendants' Motion for a Protective Order, the Court remains open to considering further argument from either Defendants or Plaintiffs should there be types or classes of documents which are materially different and more limited than those which the Court has already determined do not warrant an attorneys' eyes only protective order.

IT IS SO ORDERED.

s/ Tu M. Pham

TU M. PHAM

United States Magistrate Judge

January 13, 2010

Date